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Letter dated 14 September 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and in accordance with paragraph 6 (c) of resolution 1624 (2005), I have the honour to submit the report of the Counter-Terrorism Committee on the implementation of resolution 1624 (2005) to the Security Council for its examination.

The Committee would appreciate it if the present letter, together with the report and its annex, could be brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Ellen Margrethe **Loj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Report of the Counter-Terrorism Committee to the Security Council on the implementation of resolution 1624 (2005)

I. Introduction

1. The Security Council, by its resolution 1624 (2005) of 14 September 2005, called upon all States to take a number of steps in connection with the imperative to combat terrorism, including steps aimed at prohibiting by law and preventing incitement to commit a terrorist act or acts. It called upon all States to report to the Counter-Terrorism Committee, as part of their ongoing dialogue, on the steps they have taken to implement the resolution, and directed the Committee to report back to the Council in twelve months on such implementation. The present report has been prepared by the Counter-Terrorism Committee in accordance with the Council's directive.

2. Also by resolution 1624 (2005), the Council directed the Counter-Terrorism Committee to include in its dialogue with Member States their efforts to implement the resolution. On 20 October 2005, the Committee agreed on a series of questions which would be put to States in connection with their implementation of the resolution. Letters containing those questions were sent to all States in the ensuing months. As at 7 September 2006, 69 States had reported to the Committee on their implementation of resolution 1624 (2005) (see annex). That total included States from all regional groups. However, many States had yet to report, which limited the scope of the Committee's report on implementation of the resolution.

3. The Council further directed the Committee to work with Member States to help build capacity, including through spreading best legal practice and promoting exchange of information in that regard. The Committee has begun this work, including in the course of its visits to Member States.

II. Prohibition and prevention of incitement

4. In paragraph 1, resolution 1624 (2005), the Council calls upon all States to adopt such measures as may be necessary and appropriate and in accordance with their obligations under international law in order to prohibit by law and to prevent incitement to commit a terrorist act or acts (hereinafter, "incitement"). The reports received by the Committee to date show that States have a range of understanding of the steps that may be taken to prohibit and prevent incitement.

5. Of the reporting States, 21 informed the Committee that they had expressly prohibited incitement in their criminal laws[1] and 13 reported that they were considering doing so. The latter include several European States that mentioned this possibility in connection with ratification of the 2005 Council of Europe Convention on the Prevention of Terrorism.

6. Most of the States which reported expressly prohibiting incitement provided additional information explaining the measures they had taken. The majority of them stated that they had targeted incitement by expressly criminalizing the making

[1] One State provides for enforcement against incitement on the basis of an emergency decree.

of public statements to that end, whether oral or written.[2] Others indicated that the scope of their prohibition of incitement included private communications which might fall within traditional criminal law concepts such as counselling, inducement and solicitation.

7. Most States noted that, in order for criminal liability to be imposed, it was immaterial whether the terrorist act or acts incited were actually attempted or committed. Some States specified that incitement might be either direct or indirect.

8. In most cases, criminal liability for incitement requires a show of intent that the alleged perpetrator's statement will result in the commission or attempted commission of a terrorist act or acts. One State reported that it also criminalized conduct in which a person was "reckless as to whether persons will be so encouraged".

9. Several States told the Committee that, in order to be punishable as incitement, a statement must be shown to be likely to lead to the commission of an act of terrorism. Those States indicated that this requirement, which effectively narrows the scope of liability, stemmed primarily from the obligation to ensure respect for the right to freedom of expression. One State informed the Committee that its constitutional court had held incitement to be punishable only if it involved a "genuine risk" of inducing someone to commit a terrorist act, while another stated that there must be "an actual probability" that the statement would lead to an act of terrorism.

10. The penalties which States apply to the crime of incitement vary widely. One State imposes a penalty of five years' imprisonment, while a second provides for up to 15 years and a third for up to 20 years. One State reported that the death penalty could be applied. In most cases, States indicated that where an act of terrorism followed such incitement, they could charge the inciter as a principal offender and, if conviction resulted, impose the penalty provided for the terrorist act itself.

11. Five States that reported expressly prohibiting incitement to commit a terrorist act or acts informed the Committee that that prohibition encompassed statements that might be construed as justification or glorification (*apologie*) of acts of terrorism. In such cases, States generally indicated that evidence of a link between the alleged glorification and the commission of further terrorist acts was still required. One State, for example, reported criminalizing "indirect encouragement" of others to commit acts of terrorism or specified offences. It stated that indirect encouragement included the glorification of terrorism or the specified offences, where it could reasonably be inferred that the conduct that was glorified should be emulated in existing circumstances. Another State said that *apologie* was criminalized only when, by its nature and circumstances, it constituted a direct incitation to commit an offence. It should be noted that six States mentioned provisions of their criminal laws that prohibit the public approval or glorification of any serious crime, adding that the prohibition could be applied to acts of terrorism where such acts were defined in their criminal codes.

12. Two States also reported criminalizing statements that demean victims of terrorism. One State defines *apologie* of terrorism as praise or justification, by means of media or other methods of diffusion, of terrorist offences or of those who

[2] Several States reported they are studying application of the prohibition to the Internet.

have participated in the execution of these offences, or the realization of acts which bring with them the discredit, contempt or humiliation of victims of terrorist acts or members of their families.

13. Most States provided the Committee with information on provisions of their laws that prohibit an array of widely recognized accessory or "inchoate" offences that may be applied to any serious crime, including aiding, abetting, counselling, facilitation, incitement, inducement, instigation, organization, participation, preparation, persuasion, provocation and solicitation. The States providing that information stated that those offences were applicable to the commission or attempted commission of a terrorist act or acts, to the extent that such acts were defined in their criminal laws. Thus, in those States' view, the inclusion of such offences in their criminal codes serves to implement, at least in part, the Security Council's call upon States to prohibit by law incitement to commit a terrorist act or acts.

14. As noted above, in States that have laws concerning express incitement to commit terrorist acts, liability in such cases also depends on the intent of the alleged inciter, inducer or facilitator that a criminal act be attempted or committed, although it is immaterial whether the act is, in fact, attempted or committed. However, the penalty may differ depending on whether the principal act is or is not actually attempted or committed since, in the former case, this could expose the inciter to liability for the principal offence. In two cases, States further clarified that it was unnecessary that the alleged incitement specify the intended victims or methodology of the criminal act or acts. One State noted that it imposed liability also for attempted incitement.

15. One State stressed that its laws and jurisprudence significantly limited the Government's ability to prosecute the accessory offence of solicitation or public advocacy of the use of force or violation of the law because of the importance that its legal system attached to the right to freedom of expression. According to this State, its law prohibiting solicitation made speech punishable only when the defendant specifically intended that another person engage in the criminal conduct and where the surrounding circumstances were strongly corroborative of that intent. Those additional qualifications were intended to preserve the vitality of the law from a challenge on the grounds of the right to freedom of expression. With respect to public advocacy, the courts of this State had established that criminal liability could be imposed only where advocacy was directed to inciting or producing imminent lawless actions and was likely to incite or produce that action. Owing to the stringency of that requirement, there had never been a case in which the courts of this State had found the mere publication of written materials to be a punishable offence and it would be unable to prosecute "the majority of the terrorist propaganda found on the Internet today".

16. Several States provided the Committee with additional information on their criminal laws relevant to the prohibition and prevention of incitement. Some States noted that they imposed criminal liability for threatening criminal activity. With respect to offences specifically linked to terrorism, several States recalled that they criminalized the financing of terrorism, while others said that they criminalized participation in terrorist organizations, recruitment and training, and making available information on bomb-making and similar acts. Some States also referred to provisions on their laws that established criminal liability for conspiracy; others

while not prohibiting incitement of terrorist acts per se, reported prohibiting offences such as incitement to rebellion, incitement to war through hatred, incitement to collective disobedience and seditious conspiracy.

17. Several States noted that they had assumed relevant obligations through their ratification of certain international instruments. Frequent mention was made of the 2005 Council of Europe Convention on the Prevention of Terrorism, which a number of States have ratified or are considering ratifying. Article 5 of the Convention requires States parties to adopt such measures as may be necessary to criminalize "public provocation to commit a terrorist offence", which is defined as "the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of a terrorist offence, where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed". Several States mentioned their ratification of some of the universal counter-terrorism instruments, such as the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism, which contain provisions requiring States parties to criminalize such acts as organizing, directing others in or intentionally contributing to the commission of offences covered by those instruments.

III. Denial of safe haven

18. In paragraph 1 of resolution 1624 (2005), the Council calls upon all States to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement.

19. Most States affirmed that their immigration and border control laws provided a basis to refuse entry in cases where there were serious reasons to consider that a person had been guilty of incitement. For example, one State noted that its recent counter-terrorism legislation expanded the grounds for inadmissibility to include incitement of terrorist activity, where committed under circumstances indicating an intention to cause death or serious bodily harm. More generally, many States noted their application of article 1 (F) of the 1951 Convention relating to the Status of Refugees, which excludes from the Convention's protection any person with respect to whom there are serious reasons for considering that he or she has committed one of several specified serious crimes, or acts contrary to the purposes and principles of the United Nations.[3]

20. Most States reported that their systems to ensure denial of safe haven relied, in the first instance, on close cooperation between their immigration and border control authorities and other national authorities, including police and, in some cases, intelligence agencies. In some States, police and intelligence authorities are called upon to review applications for entry in order to verify that applicants are not inadmissible for any reason, including as a result of involvement in terrorism.

21. Most States reported that they had compiled their own lists of persons suspected of involvement in terrorist acts in order to help ensure denial of safe

[3] As at 1 January 2006, 143 States were parties to the 1951 Convention relating to the Status of Refugees.

haven. Several States noted the inclusion in such lists of information made available by other States as well as international organizations, including the International Criminal Police Organization (Interpol). Many States also recalled their obligation to prevent the use of their territories by persons or entities included in the Consolidated List maintained by the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities. Several European States noted their reliance on the Schengen Information System database, which gives over a dozen countries access to large stores of information on persons of interest to law enforcement authorities, and on information supplied by the European Police Office (Europol). In several cases, States referred to international cooperation among national intelligence agencies.

22. A few States referred to the standard of proof that they apply in denying entry to persons suspected of involvement in terrorism, stating that there must be "reasonable grounds to believe" that such events have occurred, are occurring or may occur. According to one State, "reasonable grounds to believe" is defined as meaning "more than a mere suspicion but less than a balance of probabilities". Several States emphasized the language of resolution 1624 (2005), which calls for denial of safe haven where there is "credible and relevant" information giving serious reasons for considering that a person has been guilty of incitement. According to another State, if there is any information concerning any person which implicates him in matters relating to terrorism, an arrest warrant is issued. If criminal activity is confirmed in the database of the State's security forces, the person is detained, questioned and made subject to trial or extradition. Most States did not, however, discuss the standard of proof applied in such matters.

23. Several States reaffirmed that they did not recognize claims of political motivation as grounds for refusing requests for the extradition of alleged terrorists, while others also recalled their application of the principle of "extradite or prosecute". A few States reported on measures that they had taken in order to strengthen mutual legal assistance in criminal matters.

IV. Strengthened security of international borders

24. In paragraph 2 of resolution 1624 (2005), the Council calls upon all States to cooperate, inter alia, to strengthen the security of their international borders, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures with a view to preventing those guilty of incitement from entering their territory. In reporting on steps that they have taken in this regard, many States referred to information that they had previously submitted to the Committee in the context of their implementation of Security Council resolution 1373 (2001), which also contains provisions related to effective border controls.

25. On this issue, most States reaffirmed the importance they attach to international cooperation in the areas of enforcement, training and development of relevant tools. The Committee was informed of numerous agreements reached among States at the bilateral, multilateral and regional levels with a view to different forms of cooperation. These include sharing of information on individuals of interest to law enforcement authorities, sharing of techniques and experience in

identifying fraudulent travel documents, sharing of data on international travellers, including through the Advanced Passenger Information System, and agreements for the deployment of liaison officers to other countries in order to promote better screening and communication.

26. Many States referred again to their reliance on the Consolidated List maintained by the United Nations in implementation of Security Council resolution 1267 (1999) and on information available through Interpol. At the European level, several States referred to their use of the Schengen Information System and to the role of the European Agency for the Management of Operational Cooperation at the External Borders. The Committee was also informed about the Hague Programme for strengthening freedom, security and justice in the European Union, adopted in 2004, which addresses terrorism-related threats posed by illegal immigration through enhanced cooperation among law enforcement agencies and intelligence and security services.

27. At the national level, a number of States reported enhanced training programmes and strengthened staffing of border control agencies, initiatives to improve control of civil aviation and maritime access, and deployment of state-of-the-art technological equipment. A few States referred to programmes for surveillance of foreigners on national territory, including through checks of hotel registries.

28. Investment in the development of new technologies to strengthen safeguards against fraudulent documents was reported by several States. Some referred to increased use of optical readers for travel documents while others have recently introduced, or are considering introducing, biometric travel documents. Several States noted their adoption of the standards established by the International Civil Aviation Organization and their support for its New Technologies Working Group. Reference was also made to regulation No. 2252/2004 of the Council of the European Union on standards for security features and biometrics in travel documents issued by its member States.

29. The Committee also received information from States concerning ways in which inadequate financial resources and equipment had made effective control of their borders and territory difficult to attain.

V. Dialogue and understanding among civilizations

30. In paragraph 3 of resolution 1624 (2005), the Council calls upon all States to continue international efforts to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures. Information provided on this element of the resolution fell into three categories: United Nations initiatives, other international initiatives and national measures.

A. Steps taken under United Nations auspices

31. Several States mentioned their support for General Assembly resolution 60/4, entitled "Global Agenda for Dialogue among Civilizations", and for related Assembly initiatives that have encouraged States, as well as international and

regional organizations and civil society, to develop ways and means of promoting dialogue and mutual understanding at all levels among the world's cultures, religions and peoples. The Committee was also informed of the initiatives of the General Assembly and the Commission on Human Rights aimed at combating defamation of religions and promoting respect for cultural rights and cultural diversity.

32. Frequent reference was made by States to their support, both political and financial, of the Alliance of Civilizations initiative. The Alliance of Civilizations, initially proposed by the Governments of Spain and Turkey, was formally launched by the Secretary-General in July 2005. It is intended to respond to the need for a committed effort by the international community, at both the institutional and civil society levels, to bridge divides and overcome prejudice, misconceptions and polarization which pose a potential threat to world peace. Its High-Level Group, charged with the task of recommending a practicable programme of action, has already held meetings in Spain, Qatar and Senegal, with a fourth meeting planned for autumn 2006 in Turkey.

33. Another activity often mentioned was support for initiatives of the United Nations Educational, Scientific and Cultural Organization (UNESCO) that foster dialogue among civilizations. Several States noted that they had supported UNESCO in its sponsorship, since 2003, of a series of conferences and workshops dealing specifically with the need to foster such dialogue. Others reported that they were considering ratification of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted by UNESCO in 2005.

34. Finally, several States identified their active membership in the United Nations itself as an important means of fostering international understanding and dialogue among civilizations. In this connection, reference was made to States' participation in the Group of Friends for the Reform of the United Nations.

B. Other international initiatives

35. Several States highlighted their support for the Anna Lindh Euro-Mediterranean Foundation for Dialogue between Cultures, established in Alexandria, Egypt in April 2005 under the auspices of the Barcelona Process. The Foundation, financed by the member States of the Euro-Mediterranean Partnership, seeks to promote dialogue among cultures through conferences, academic exchanges and cultural events with the goal of increasing understanding among European and Mediterranean countries.

36. Other international initiatives mentioned by States included agenda items on dialogue among civilizations at several events organized by the Asia-Europe Meeting beginning in 2002, including the meeting held in Bali in July 2005. States also mentioned the Asia-Middle East Dialogue, which began with a meeting of representatives of 50 Asian and Middle Eastern countries in Singapore in 2005 with the goal of boosting regional cooperation, including in the fight against terrorism. More meetings of the Dialogue are planned for the future.

37. Several European States reported on measures taken under European Union auspices to promote dialogue among civilizations, including efforts to develop a "best practices" guide on intercultural dialogue and inclusion for member States.

Several States noted that 2008 has been designated as the European Union "Year of Intercultural Dialogue". Mention was also made of Council of Europe initiatives, including the Faro Declaration adopted by European ministers of cultural affairs at a meeting held in Faro, Portugal, in October 2005. The Declaration sets out a strategy for the promotion of intercultural dialogue and calls on the Council of Europe to prepare a "white paper" on integrated policies for the management of cultural diversity through dialogue and conflict prevention. The Council has also launched a youth campaign called "All Different — All Equal". Relevant workshops and conferences of the Organization for Security and Cooperation in Europe (OSCE) were also mentioned, as well as bilateral partnerships among European Union and Arab countries designed to promote mutual understanding through conferences and youth-exchange programmes.

38. Some States in the Latin American region mentioned initiatives taken under the auspices of the Organization of American States and other regional initiatives to promote indigenous and ethnic participation in society. A summit of South American and Arab countries, held in Brasilia in May 2005, had the goal of promoting better understanding in the political, economic, social and cultural spheres. The work of the Arab League Educational, Scientific and Cultural Organization was also mentioned.

C. National measures and initiatives

39. Some States informed the Committee of actions at the national level intended to foster dialogue and understanding among civilizations. One commonly described measure was the adoption of laws designed to protect minorities, conduct outreach and engage them in the political process. For example, some States referred to measures designed to help newly arrived immigrants integrate into society. One State mentioned an initiative intended to promote ways to remove "unjustified obstacles" to the activities of bona fide Islamic charities.

40. A few States indicated that they had established advisory bodies made up of representatives of religious and ethnic minorities in order to bring to the Government's attention issues of concern to their communities. Others reported establishing international exchange programmes for students and academics as well as artistic festivals, sports events and conferences designed to promote cultural awareness.

VI. Countering incitement motivated by extremism and intolerance

41. In paragraph 3 of resolution 1624 (2005), the Council calls upon all States to take all measures as may be necessary and appropriate and in accordance with their obligations under international law to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters. States focused on two general areas in reporting on this element of the resolution: repression and prevention.

42. Several States told the Committee of provisions of their criminal codes that prohibit various forms of speech advocating hatred based on racial, cultural, religious or similar grounds; some referred to the obligation imposed by article 20 of the International Covenant on Civil and Political Rights. One State added that it took steps to ensure that those laws were interpreted with due regard for the right to freedom of expression, as contained in article 19 of the Covenant. Some States reported the adoption of laws guaranteeing religious freedom and outlawing religious-based discrimination.

43. Some States monitor the activities of extremist entities, including those that promote anti-Semitism, Islamophobia and violent extremism, and collect and evaluate relevant data. Mention was made of the work of Europol in developing national capacities to address recruitment to terrorism and related abuse of the Internet. One State reported that it exercised vigilance through competent religious institutions in order to ensure that religious sermons remained moderate and rejected any extremism or intolerance.

44. Many States mentioned Government-sponsored public awareness campaigns denouncing extremism and promoting tolerance and non-discrimination. All of these efforts have attempted to address the problem of disenfranchised ethnic and religious groups that are particularly susceptible to the rhetoric of extremism. Several States mentioned the special role played by education ministries; one noted that its education system was legally mandated to reflect universal and national values which promote the complete development of the person and equip the person to participate fully in social and economic development. The important roles of political leaders and members of civil society and the private sector were also mentioned.

45. One initiative often cited by members of the European Union was that organization's "Strategy for Combating Radicalization and Recruitment to Terrorism", which was adopted together with a detailed plan of action in December 2005. The Strategy sets out a range of actions to combat the structural (i.e., governance and socio-economic), motivational (ideological) and facilitational (opportunities) factors of radicalization and recruitment to terrorism. A key element of the strategy is development of a "non-emotive lexicon" intended to reject the association of terrorism with any religion, improve understanding and sensitivities surrounding certain terms among member States and the media and promote the core values of the international community.

46. One State informed the Committee that it had created an anti-racism agency that provided advice and assistance to victims of racism. Several States also referred to the work of the European Commission against Racism and Intolerance and to the role of OSCE, including the Personal Representative of the OSCE Chairman-in-Office on Combating Intolerance and Discrimination against Muslims.

47. One State noted that it actively supported implementation of the conclusions of 27 February 2006 of the Council of the European Union concerning reactions in the Muslim world to publications in European media and that it encouraged European Union efforts to strengthen dialogue with the Organization of the Islamic Conference (OIC) within the United Nations, including on OIC initiatives concerning religious intolerance and defamation of religions.

48. One country's interior ministry has initiated a "security dialogue" between religious communities in the country and public institutions in order to prevent subversive activities in the fields of education, culture and religion. Other States referred to the importance of focused policing activities that include public outreach and openness.

VII. Compliance with obligations under international law

49. In paragraph 4 of resolution 1624 (2005), the Council stresses that States must ensure that any measures taken to implement paragraphs 1, 2 and 3 of the resolution comply with all of their obligations under international law, in particular international human rights law, refugee law and humanitarian law.

50. As noted above, in addressing the need to prohibit and prevent incitement, several States highlighted safeguards enshrined in their legislation or applied by their courts to ensure that any related measures are taken in conformity with the obligation to respect freedom of expression, including as provided by article 19 of the International Covenant on Civil and Political Rights. In this connection, liability for incitement in some States is dependent on evidence that any alleged incitement is likely to lead to the commission or attempted commission of a criminal act. It is not enough, in those States, for an alleged perpetrator merely to have the requisite intent. One State reported that, because of that requirement, it had never had a case in which the mere publication of written materials was found to be a punishable offence. Other States, while not applying such a rigorous test, nonetheless indicated that they strove to ensure that any legitimate restrictions they might place on human rights, including the right to freedom of expression, were provided by law and were consistent with the principles of necessity and proportionality.

51. Several States stressed the crucial role of an independent judiciary in reviewing and ensuring the lawfulness of counter-terrorism measures, including those taken against incitement. According to one State, judgements of its constitutional court had recognized the vital role that freedom of expression plays in a democratic society and the need to interpret any related criminal offences narrowly. Another said that it ensured that judicial review was accessible to both citizens and non-citizens. The role of international bodies, such as the European Court of Human Rights and the United Nations treaty-monitoring bodies, was also mentioned several times in this respect.

52. One State addressed the issue of the consistency of its counter-incitement law with international human rights obligations by stating that the concept of criminality reflected in the laws must be understood from the point of view of full respect for rights and fundamental freedoms such as freedom of expression and information. In that sense, the law's own preamble explained: "The acts penalized here ... constitute not only aid and support to very serious criminal acts and to their sustainability and durability, but also a very disturbing manifestation of how in various ways collective terror may be generated in order to advance terrorist goals. It is not a matter, in any way, of prohibiting the exaltation or defence of ideas or doctrines, even if those are far removed from or place in question the constitutional framework, or even less of prohibiting the expression of subjective opinions about historical or current events."

53. According to one State, its definition of "terrorist activity" requires that a number of intention and purpose elements be satisfied; it further protects democratic action by expressly excluding from its coverage "advocacy, protest, dissent or stoppage of work" where these are not intended to result in serious forms of specified harm. Its law is also clarified through an interpretive clause stating that the expression of political, religious or ideological thought, belief or opinion does not fall within the definition of "terrorist activity" unless it constitutes an act or omission that falls within that definition.

54. With respect to paragraph 4 of resolution 1624 (2005), many States informed the Committee of their ratification of most, and in some cases all, of the major international human rights treaties, as well as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the Geneva Conventions and their Protocols, and relevant regional human rights instruments. In most cases, the ensuing obligations have been incorporated directly into their national legal orders through their constitutions and other laws, prevail over any conflicting legislative provisions and are directly applicable. Other States simply declared that they ensured compliance with their obligations under international law.

55. A few States described arrangements under which draft laws were subject to review by Government authorities, in part to ensure their compliance with international human rights obligations. One State noted that its counter-terrorism laws were subject to legislatively mandated review by its Parliament while another mentioned the role of its national human rights institutions.

56. Several States cited certain human rights guarantees that are ensured in the course of criminal investigations, including respect for the principle of legality, freedom from discrimination, access to evidence and other due process rights, and respect for the presumption of innocence. Some States described exceptional procedures applicable to terrorism cases which, it was argued, were nonetheless consistent with their international obligations. Others said that the prosecution of alleged terrorist acts was subject to normal criminal procedures and thus to conventional human rights safeguards. The need to ensure proportionality in penalties was also cited.

57. One State recalled the role of the Special Rapporteur on the protection of human rights and fundamental freedoms while countering terrorism and his comment that the Council of Europe Convention on the Prevention of Terrorism, which includes a provision calling on States to criminalize public provocation to commit a terrorist offence, is "a sound response which would respect human rights". It noted that the Special Rapporteur viewed favourably the Convention's definition of "public provocation" of terrorism since it was based on a "double requirement of a subjective intent to incite (encourage) the commission of terrorist offences and an objective danger that one or more such offences would be committed" (see E/CN.4/2006/98, para. 56 (c)).

58. Several States noted the need to take into account the right to privacy in international information-sharing related to terrorism. One State said that the European Union had set strict conditions for information exchange, especially in connection with asylum applications.

59. One State informed the Committee that its counter-terrorism law included provisions that covered the rights of victims or their heirs, including compensation and/or restitution.

60. One State stressed the importance of open and public debate over specific counter-terrorism measures, which should involve the Government, Parliament and civil society at large.

61. With respect to international refugee law, several States stressed that they ensured respect for international legal obligations imposing an absolute prohibition on the expulsion of persons, irrespective of their alleged involvement in serious crimes, to other States where there were substantial grounds for believing that such persons would be in danger of being subjected to torture, ill-treatment or persecution. One State noted that it ensured that any denial of safe haven or refuge was conditioned on strict respect for due process and the presumption of innocence. Another said that it was striving to put into practice the "Agenda for Protection" of the Office of the United Nations High Commissioner for Refugees and other relevant conclusions of the Executive Committee of the High Commissioner's Programme.

VIII. Conclusions

62. To date, approximately one third of the States Members of the United Nations have reported to the Counter-Terrorism Committee on the steps that they have taken in order to implement Security Council resolution 1624 (2005). These reports indicate that States have a range of understanding of the steps that may be taken in order to prohibit by law and to prevent incitement to commit a terrorist act or acts. While some States reported expressly prohibiting such incitement in their criminal laws, others provided the Committee with information on other kinds of measures that they had taken or were considering taking and that, in their view, represented implementation of this aspect of the resolution.

63. Concerning denial of safe haven, States provided the Committee with information on such areas as the processing of claims to refugee status and the handling of extradition requests. On strengthening the security of international borders, States described various forms of international cooperation and provided information on new procedures and technologies that had been adopted in order to prevent document fraud and enhance the effectiveness of passenger screening.

64. In connection with paragraph 3 of the resolution, States described various steps that they had taken to promote international efforts to enhance dialogue and broaden understanding among civilizations, including United Nations and other international initiatives and measures taken at the national level. States also provided the Committee with information on their efforts to counter incitement motivated by extremism and intolerance, including both enforcement and prevention measures.

65. Finally, States provided the Committee with a range of information on steps taken in order to ensure that any measures taken to implement the resolution complied with all their obligations under international law, in particular international human rights law, refugee law and humanitarian law. They described

the international obligations by which they were bound and the specific ways in which they upheld those obligations in their counter-terrorism programmes.

66. The Counter-Terrorism Committee will continue its efforts to fulfil the mandate given to it by the Security Council in resolution 1624 (2005).

Annex

List of States that had submitted reports on their implementation of Security Council resolution 1624 (2005) to the Counter-Terrorism Committee as at 7 September 2006

1. Andorra
2. Austria
3. Belarus
4. Bosnia and Herzegovina
5. Brazil
6. Bulgaria
7. Burkina Faso
8. Canada
9. Chile
10. China
11. Colombia
12. Cuba
13. Cyprus
14. Czech Republic
15. Denmark
16. Djibouti
17. Egypt
18. El Salvador
19. Estonia
20. Finland
21. France
22. Germany
23. Greece
24. Hungary
25. Indonesia
26. Israel
27. Italy
28. Japan
29. Jordan
30. Latvia

31. Lebanon
32. Libyan Arab Jamahiriya
33. Liechtenstein
34. Lithuania
35. Luxembourg
36. Mauritius
37. Mexico
38. Monaco
39. Morocco
40. Namibia
41. Netherlands
42. New Zealand
43. Norway
44. Paraguay
45. Poland
46. Portugal
47. Qatar
48. Republic of Korea
49. Republic of Moldova
50. Romania
51. Russian Federation
52. Serbia and Montenegro
53. Seychelles
54. Singapore
55. Slovakia
56. Slovenia
57. South Africa
58. Spain
59. Suriname
60. Sweden
61. Switzerland
62. Syrian Arab Republic
63. Tajikistan
64. Thailand

65. Turkey
66. Ukraine
67. United Kingdom of Great Britain and Northern Ireland
68. United States of America
69. Yemen